

OVERVIEW OF THE HAZARDOUS WASTE PROGRAM RULEMAKING PROCESS AND STATE RCRA DELEGATION AUTHORIZATION

Ronda L. Blayer

DEQ, Office of Waste Management and
Radiological Protection

517-284-6555 or blayerr@michigan.gov



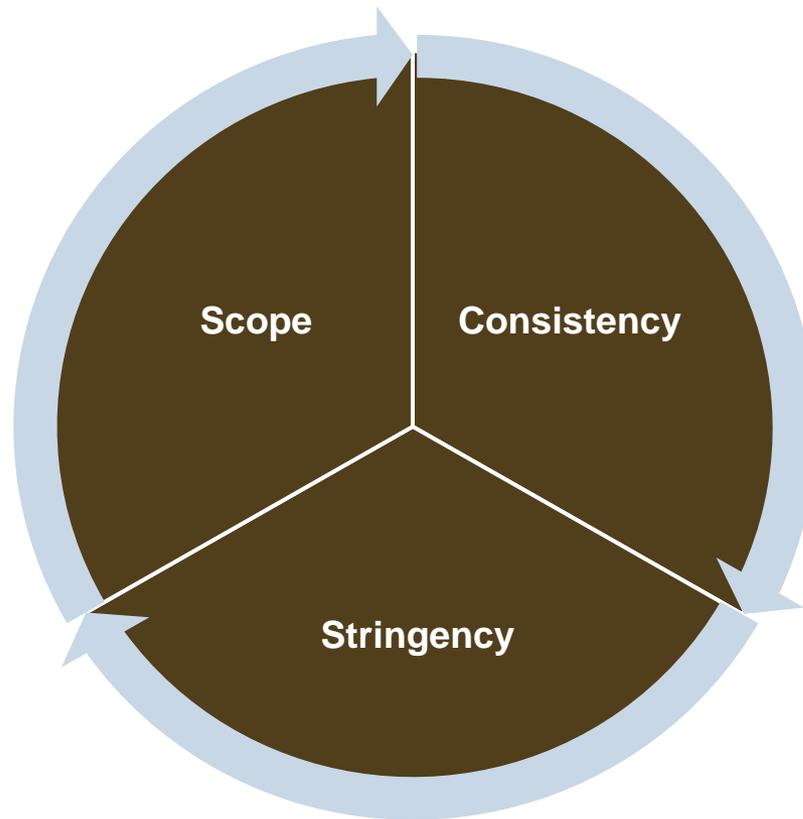
MECC 2016

Michigan's Hazardous Waste Management Program

- Michigan received federal authorization for its Program on October 30, 1986
- DEQ administers its Program under Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451) in lieu of the federal program under the Resource Conservation and Recovery Act of 1976, as amended by the 1984 Hazardous and Solid Waste Amendments (RCRA/HSWA)
- Program governed by both statute and regulations

Delegated Program Requirements

- Three overall requirements for a delegated program



A Closer Look at the Requirements

- ❖ Consistency
 - ⊗ Is it consistent with the federal program?
(*e.g., same regulatory framework, program goals*)
- ❖ Stringency
 - ⊗ Must be not less stringent than the federal program
(*e.g., liner requirements, cleanup criteria*)
- ❖ Scope
 - ⊗ Cannot be broader in scope than the federal program
(*e.g., transporter credentials not authorized program*)

Keeping Pace with Federal Program

- Statute

- ✧ Act 64 of 1979  Part 111 of Act 451, over 30 amendments over course of program

- Regulations

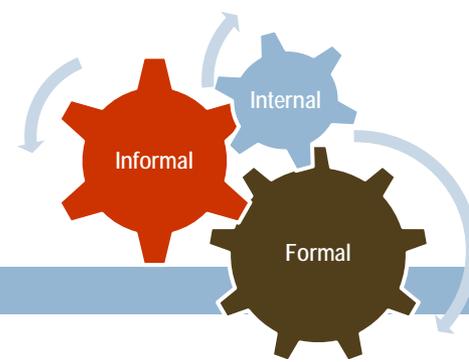
- ✧ Early regulations (pre authorization, base program regulations, and currently pursuing 11th amendment to rules package)

Considerations for Amendments

- ❖ Federal program revisions
 - ⊗ Monitor *Federal Register* (FR)
 - ⊗ Federal work group participation
- ❖ Revisions to other state programs
 - ⊗ Participation on state workgroup
- ❖ Staff recommendations based on program implementation
- ❖ Public requests and suggestions
 - ⊗ General public, regulated community, etc.



Rulemaking Process



- ❖ Governed by Program, DEQ, and Office of Regulatory Reinvention (ORR) procedures
 - ⊗ Identify all revisions to be included in a rules package and draft package, showing additions in **bold** text, deletions in ~~strikethrough~~ text (*Draft 1*)
 - ⊗ Internal review of initial draft by designated Program experts (30 days)
 - ⊗ Submit Request for Rulemaking (RFR) to ORR for approval
 - ⊗ Revise based on comments and any new federal changes and conduct Short List review process (*Draft 2*)

Formal Part of Promulgation Process

- ❖ After completion of informal process, initiate formal process
- ❖ Submit rules (*Draft 3*) to ORR for informal review and approval by ORR (authority, general) and the Legislative Service Bureau, LSB, (formatting and style)
- ❖ Address informal review comments, prepare Executive Overview, Notice of Public Hearing, and Regulatory Impact Statement and Cost-Benefit Analysis, and rules (*Draft 4*), and submit to Executive Office and ORR

Public Participation and More

- ❖ Public notice hearing in 3 newspapers (1 in UP), providing for 30 days advance notice of hearing, and DEQ calendar, send notice to Long List, publish rules in *Michigan Register (MR)*, and conduct public hearing, providing for total of 45-day public comment period
- ❖ Consider comments provided during public comment period
- ❖ Update Executive Overview
- ❖ Submit to ORR Joint Committee on Administrative Rules (JCAR) Report and rules (*Draft 5*) for formal certification by LSB and ORR

Almost There

- Rules must be before JCAR for 15 session days
 - ✧ Can object to rules
 - ✧ May waive remaining of 15 session days
- Submt Certificate of Adoption to ORR
- ORR files rules with Office of the Great Seal
- Rules effective and published in MR!



Statute and Rules in Place, Now What?

- ❖ Prepare authorization revision application (ARA)
 - ⊗ Pertinent statutory excerpts
 - ⊗ Final effective rules
 - ⊗ RCRA revision checklists
 - ⊗ AG's statement
 - ⊗ Program description
 - ⊗ List of state-initiated program revisions
 - ⊗ Compliance monitoring and enforcement strategy
 - ⊗ Licensing strategy
 - ⊗ Memorandum of agreement

RCRA Revision Checklists

- Tools prepared by U.S. EPA, Headquarters to aid in the drafting of rules and authorization of state programs

SPA 34

RCRA REVISION CHECKLIST 229
 Conditional Exclusions for Solvent Contaminated Wipes
 78 FR 46448-46485
 July 31, 2013
 (RCRA Cluster XXIII, Non-HSWA)

Name of State: Michigan
 State Statutory Authority: MCL 324.11115a, 324.11115b, 324.11118, 324.11123, 324.11127, 324.11128, 324.11130, 324.11132a, 324.11137, 324.11138, 324.11140, 324.11141, 324.11153, 324.99903, 324.99919, and 324.99921
 Title of Regulations: Administrative rules promulgated pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 4541, as amended
 Effective Date: NA
 Date Checklist Completed: 10/28/15

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALYSIS			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
PART 260 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL						
SUBPART B DEFINITIONS						
DEFINITIONS						
<i>No free liquids</i> , as used in 40 CFR 261.4(a)(26) and 40 CFR 261.4(b)(18), means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for	260.10 "no free liquids"	R 299.9105(bb) and R 299.9204(1)(z) and (2)(q)	X			

ARAs and Authorization

- ❖ Annual RCRA Grant establishes time periods for submittal and review of ARAs
- ❖ Draft ARA submitted
- ❖ Review comments evaluated and ARA updated
- ❖ Final ARA submitted
- ❖ Notice of proposed rulemaking published in FR
- ❖ Notice of final authorization A circular seal with a scalloped edge. The text "SEAL OF" is at the top, "APPROVED" is in the center, and "APPROVAL" is at the bottom.
- ❖ Codification in Title 40 of the Code of Federal Regulations

Useful Information

- ❖ ORR's website:

http://www.michigan.gov/budget/0,4538,7-157-76309_35738---,00.html

- ❖ DEQ's website for hazardous waste statute and rules

https://www.michigan.gov/deq/0,4561,7-135-3312_4118_4240-9167--,00.html

- ❖ U.S. EPA's website on RCRA state authorization

<https://www3.epa.gov/epawaste/laws-regs/state/index.htm>

- ❖ Report on Authorized State Program Revisions

MICHIGAN'S REPORT ON AUTHORIZED STATE PROGRAM REVISIONS UNDER THE PART 515, HAZARDOUS WASTE MANAGEMENT, OF THE NATURAL RESOURCE AND ENVIRONMENTAL ACT, 1994 PA 451, AS AMENDED, PROGRAM															
PR TITLE	PR DATE	PR CITATION	BASIS	CLUSTER	CHECKLIST	STATE REVISION DATE	RULES EFFECTIVE DATED	RULES AMEND. NUMBER	AUTH. PR CITATION	AUTH. PR DATE	AUTH. DATE	COMMENTS	COD. PR CITATION	COD. PR DATE	COD. DATE
Revisions to definition of solid waste (table)	10/30/08	73 FR 64887	RCRA	19	219	7/1/10						State waiting on final rule and legal issues resolution			
Academic laboratory generator standards (update)	12/1/08	73 FR 72917	RCRA	19	220	7/1/10	11/5/13	11/4/11	19	86 FR 52294	8/29/15	8/29/15			
Expansion of RCRA compliance fee exclusion	12/19/08	73 FR 77284	RCRA	19	221	7/1/10						Check list withdrawn by U.S. EPA			
OECD requirements: export shipments of spent lead acid batteries	5/8/10	75 FR 1238	RCRA	20	222	7/1/11	11/5/13	11/5/10	19	86 FR 52294	8/29/15	8/29/15			
Hazardous waste technical conditions and definitions rule	3/19/10	75 FR 12389	Both	20	223	7/1/11	11/5/13	11/5/10	19	86 FR 52294	8/29/15	8/29/15			

Any Questions?

Thank You!